REMARKS

Claims 1-11 and 18-23 are currently pending in the application. Claims 1-11 and 18-23 stand rejected. Claims 2 and 18-21 were not rejected on the basis of adverse prior art. Claims 1, 2, and 22 are amended. Claims 1-11 and 18-23 remain pending.

Claim Rejections – 35 USC § 112

Claims 1-11 and 18-23 stand rejected under 35 U.S.C. § 112, first paragraph, as based on a disclosure which is not enabling. Specifically, the Examiner states that "the Brower Declarations in the present application (paragraph 5) and in parent application SN 10/618,166 (paragraph 10) appears to state that the presence of an aperture (present application) and (parent application) the presence of uneven or feathered serrations are each critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure." Office Action, p. 2. Applicant respectfully traverses this rejection.

With respect to the presence of an aperture, paragraph 5 of the Brower Declaration in the present application simply states that "[a]mong other things, I contributed the concept of providing a wall patch, such as the wall patch disclosed and claimed in U.S. Patent No. 6,607,621, with an aperture or cutout area to allow it to mate with a wall element, such as a light switch, power outlet, cable jack, phone jack, or other wall element, for example." Inventorship Declaration of Jerry Brower (Nov. 27, 2006), ¶ 5. Although this paragraph explains that Mr. Brower contributed the aperture concept, it nowhere states that this in an essential or critical feature to the practice of every aspect or embodiment of the present invention.

Indeed, the present application expressly incorporates by reference the disclosures of the parent applications (*see* Specification, p. 1, lines 4-9.), which do not disclose (and therefore cannot possibly require) the presence of these apertures. Since the parent applications support claims which lack the aperture limitation, and since those applications are expressly incorporated by reference, there is adequate support for those claims in the present application and those claims are further entitled to the benefit of the earlier filing date.

With respect to the presence of uneven or feathered serrations, paragraph 10 of the Brower Declaration in the parent application explains that this is one distinguishing feature of the invention, but does not state that this is the only, or even a critical or essential distinguishing feature. Rather, the Brower Declaration explains that there are numerous features that alone, or

in combination, distinguish over the prior art. *See, e.g.*, ¶¶ 11-14. Nonetheless, independent claims 1 and 22 have been amended to recite the "uneven" and/or "feathered edge" feature as part of the claims.

For at least the foregoing reasons, the Examiner's rejection under 35 U.S.C. § 112 is believed to be overcome, and claims 1-11 and 18-23 are in condition for allowance.

Claim Rejections – 35 USC §§ 102 and 103

Claims 1, 3, 4, and 22 are rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Owens, et al. Claims 5-11 and 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Swanson taken either individually, or in view of Owens, et al., and for all the claims in further view of Parker '222.

Although Applicant respectfully disagrees with the Examiner's position regarding the teachings of the prior art, independent claims 1 and 22 have nonetheless been amended to recite the limitation of previous claim 2, namely, a perimeter having a feathered edge. Because claim 2 was not rejected on the basis of adverse prior art, claims 1 and 22 and each of their dependent claims are therefore believed to be in condition for allowance.

Claim Rejections – Double Patenting

Claims 1-4, 18, and 22 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 6, and 8 of U.S. Patent No. 6,607,621. Claims 1-4, 18, and 22 also stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 18, 20, 30 and 31 of copending Application No. 10/618,166.

Applicant has filed herewith a terminal disclaimer in compliance with 37 CFR § 1.321(c) to obviate the Examiner's rejection under the judicially created doctrine of obviousness-type double patenting. Claims 1-4, 18, and 22 are therefore further believed to be in condition for allowance for this additional reason.

For at least the foregoing reasons, reconsideration and allowance of claims 1-11 and 18-23 of the application as amended is requested. The Examiner is encouraged to telephone the undersigned at (503) 222-3613 if it appears that an interview would be helpful in advancing the case.

Respectfully submitted,

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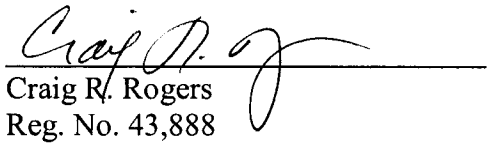

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